

APPEAL NO. 022172
FILED OCTOBER 14, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 1, 2002. The hearing officer determined that the respondent's (claimant) impairment rating (IR) is 16% as certified by the Texas Workers' Compensation Commission (Commission)-appointed designated doctor. The appellant (carrier) appeals the determination, asserting that the hearing officer erred by not requesting clarification of the designated doctor's report in view of contrary medical opinions. The claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's IR is 16% as certified by the Commission-appointed designated doctor. As indicated above, the carrier contends that the hearing officer abused her discretion by not requesting clarification of the designated doctor's report in view of contrary peer review reports.¹ The carrier questions the validity of the designated doctor's certification, asserting that the designated doctor failed to measure range of motion (ROM) in the claimant's contralateral uninvolved ankle (left ankle) and that the report erroneously assigned a rating for bilateral L4 and L5 radiculopathy and a rating under Table 49 of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association. Contrary to the carrier's position, nothing in our review of the record indicates that the designated doctor did not consider the contralateral joint when measuring loss of ROM in the claimant's right ankle. See Texas Workers' Compensation Commission Appeal No. 002598, decided December 18, 2000. Additionally, we view the peer review doctor's opinions with regard to the ratings assigned for the claimant's low back as a mere difference of medical opinion. Accordingly, we cannot conclude that the hearing officer abused her discretion by not requesting clarification of the designated doctor's report. Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986). Nor can we conclude that the hearing officer's IR determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

¹ We note that only the report by Dr. G addressed the designated doctor's certification. A peer review report by Dr. S addressed an earlier certification by the claimant's treating doctor, which is not at issue here. Notwithstanding, the carrier argued that the concerns raised by Dr. S equally apply to the designated doctor's report.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **COMBINED SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Margaret L. Turner
Appeals Judge